

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

FILED BY 2 D.C.

05 MAY 18 PM 3:33

ROBERT L. D. TISDIO  
CLERK, U.S. DIST. CT.  
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BAKER, DONELSON, BEARMAN,  
CALDWELL & BERKOWITZ, P.C.

Plaintiff,

v.

No. 04-2931 DV

SOUTHWIND CONSTRUCTION  
CORPORATION,

Defendant and Third Party Plaintiff,

v.

UNITED STATES FIDELITY AND  
GUARANTY COMPANY,

and

KOESTER COMPANIES, et. al.

**CONSENT ORDER OF DISMISSAL WITH PREJUDICE**

This cause came on to be heard upon the statements of counsel for Plaintiff, Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C. ("Baker Donelson"), the statements of counsel for Defendant, Southwind Construction Corporation ("Southwind"), the statements of counsel for Third Party Defendant, United States Fidelity And Guaranty Company ("USF&G") and the entire record in this cause. It appearing to the Court that the parties have compromised and settled the claims between them and that this action (including the claims of Baker Donelson in

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with Rule 58 and/or 79(a) FRCP on 5-19-05

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the Complaint and the claims of Southwind in the Third Party Complaint) should be dismissed with prejudice.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that the cause of action of Baker Donelson against Southwind should be and is dismissed with prejudice.

IT IS, FURTHER, ORDERED, ADJUDGED AND DECREED that the cause of action of Southwind against USF&G and the other Third Party Defendants should be and is dismissed with prejudice

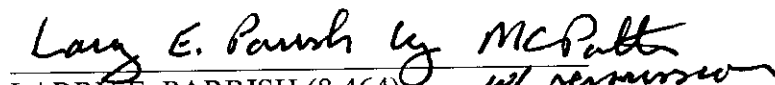
  
UNITED STATES DISTRICT JUDGE

DATE: May 18, 2005

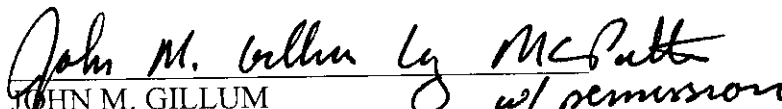
APPROVED AS TO FORM:

  
E. FRANKLIN CHILDRESS, JR. (7,040)  
R. SPENCER CLIFT, III (20,445)

Attorneys for Plaintiff,  
Baker, Donelson, Bearman, Caldwell & Berkowitz, P.C.

  
LARRY E. PARRISH (8,464) *w/ permission*

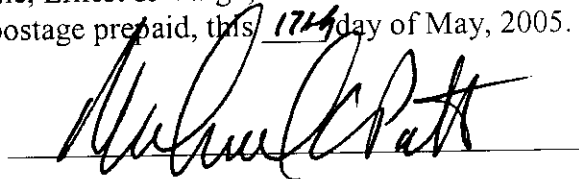
Attorney for Defendant, Southwind Construction Corporation

  
JOHN M. GILLUM *w/ permission*

Attorney for Third Party Defendant,  
United States Fidelity And Guaranty Company

CERTIFICATE OF SERVICE

I, the undersigned, certify that a true and correct copy of the foregoing has been served upon John E. Rhine and William C Illingworth, Rhine, Ernest & Vargo, 631 Market Street, Mount Carmel, Illinois 62863-1489 via U.S. Mail, postage prepaid, this 17~~th~~ day of May, 2005.





## Notice of Distribution

This notice confirms a copy of the document docketed as number 26 in case 2:04-CV-02931 was distributed by fax, mail, or direct printing on May 19, 2005 to the parties listed.

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Larry E. Parrish  
LAW OFFICES OF LARRY E. PARRISH  
6075 Poplar Avenue  
Ste. 420  
Memphis, TN 38119--476

E. Franklin Childress  
BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ  
165 Madison Ave.  
Ste. 2000  
Memphis, TN 38103

John M. Gillum  
MANIER & HEROD  
150 4th Avenue North  
Ste. 2200  
Nashville, TN 37219--249

Raymond Spencer Clift  
BAKER DONELSON BEARMAN CALDWELL & BERKOWITZ  
165 Madison Ave.  
Ste. 2000  
Memphis, TN 38103

Jeffrey S. Price  
MANIER & HEROD  
150 4th Avenue North  
Ste. 2200  
Nashville, TN 37219--249

Honorable Bernice Donald  
US DISTRICT COURT